

**Remarks**

Reconsideration of the objection to claims 1-3 and 13 is requested. Claim 1 has been amended to change “oft he” to “of the”. Claims 2 and 3 have been amended to use consistent language as claim 1 and “as” in claim 13 has been corrected to read: has. In view of the above, reconsideration of this objection is requested.

Reconsideration of the rejection of claim 22 under 35 U.S.C. 112 is requested. Claim 22 has been amended to depend from method claim 21 and hence reconsideration of this rejection is requested,.

Reconsideration of the rejection of the claims 1, 2, 13, 14, 16 and 21 as being anticipated by Robertson ('620) under 35 U.S.C. 102(b) is requested. Robertson's tool is not “a gum packing assisting tool for forcing soft gum tissue of a patient around a tooth.” Quite to the contrary, Robertson's dental appliance is for “retraction of the gum tissue surrounding the neck of the tooth” (e.g., col. 1, lines 15, 21-22, 48-49; col. 4, lines 18, 19). The strand does NOT have portions of its cross section of circular configuration as contended by the Examiner. Rather the inside side of the appliance is flat so as to be able to push the gum tissue away from and down the tooth so as to be able to create crevice 7. Thus, Robertson acts directly opposite from Applicant's tool which presses the gum against the tooth. If Robertson's device were to be made with a round cross-section it could not function as desired since it would press the gum against the tooth as taught by Applicant. The Robertson device can have a “vaso-constrictor” for control of bleeding (e.g. col. 1, lines 53-55, 67-58; col. 3, lines 1-3) and does not have a “medicinal coating for treatment of any one of pain, infection, and pain and infection” as claimed in claim 13. Robertson does not teach the tamping method step of claim 21 “to move the touching soft tissue gum AGAINST the root portions of the tooth.” Rather, Robertson teaches moving the gum tissue away from and down to the root portions of the tooth. The Examiner's contention that Robertson teaches “different shapes” is not supported at col. 42, line 48. Robertson needs his flat shape to move the gum tissue away from the tooth and to create the desired crevice 7. Accordingly, reconsideration of this rejection is requested.

Reconsideration of the rejection of claims 1, 3-5, 7-9, 11, 12, 15 and 17-20 as being anticipated by Brosius ('974) under 35 U.S.C. 102(b) is requested. The patent statues do not allow for an Examiner to ignore recitations in the claims. Brosius does not show a “gum packing assisting tool for forcing soft gum tissue of a patient around a tooth.” Brosius does

not teach "the endless strand...tensioned to allow the endless strand to be placed over and encircle the tooth to tightly grip the edges of the tooth when the tension is released". And, while portions of the Brosius device have a circular cross-section, it does not "facilitate rolling downward of the endless strand over the sides of the tooth to the gum line of the patient". Thus, Brosius does not anticipate the limitations of claim 1 under 35 U.S.C. 102(b). The tab portions 424 of Brosius do not permit easy removal of the tool from around the tooth as the device of Brosius is never placed around a tooth. Thus, the tabs also do not assist in placing the tool ABOUT a tooth. Accordingly, reconsideration of this rejection is requested.

Reconsideration of the rejection of claims 3-12 as being unpatentable over Robertson ('620) in view of Brosius ('974) under 35 U.S.C. 103(a) is requested. Brosius was not proffered for, nor does it cure, the inadequacies of Robertson as explained supra as concerns the rejections of claims 1, 2, 13, 15, 16 and 21. Further, while Brosius teaches a variable cross-section for an orthodontic ligature, one skilled in the art would not look to orthodontic technology for modifying the Robertson device used to retract gum tissue from around a tooth. The problems and conditions for restricting gum contact with a tooth do not relate to orthodontic conditions. Accordingly, reconsideration of the rejection is requested.

Reconsideration of the rejection of claim 14 as being unpatentable over Robertson ('620) in view of Mahoney ('439) under 35 U.S.C. 103(a) is requested. The use of Mahoney was not proffered for, nor does it cure, the inadequacies of Robertson as explained in the rejection of claims 1, 2, 3, 5, 6 and 21 supra. The Examiner's contention that col. 5, line 22 teaches making something biodegradable is not found. At col. 5, line 53 Mahoney says a high mannuronic (M) containing dressing can dissolve in wound exudate. This material is not shown to be useful as a spring tensionable ring material. Nor is there wound exudate at the base of the tooth. There is no reason taught in the art to make the ring of Robertson biodegradable. Further, Robertson teaches that its ring is removed in three minutes (col. 3, lines 15-17). Even if biodegradable, such dissolving would not occur in three minutes. Accordingly, the proposed combination is not in accord with the obviousness standards of 35 U.S.C. 103 and hence reconsideration of this rejection is requested.

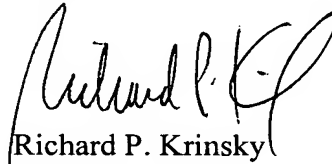
Reconsideration of the rejection of claim 21 as being unpatentable over Robertson under 35 U.S.C. 103(a) is requested for substantially the same reason as presented in the request for reconsideration of claim 21, supra. Further, rolling of the Robertson device along the tooth would not allow the device of Robertson to function as intended, i.e., be able to

move the gum line down to create the crevice 7. Accordingly, reconsideration of this rejection is requested.

In view of all of the above, the Application is now in condition for allowance and such is hereby requested.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg LLP, Deposit Account No. 02-1010 (644/37423).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard P. Krinsky", with a stylized flourish at the end.

Richard P. Krinsky  
Reg. No. 47,720  
(202) 289-1313  
BARNES & THORNBURG LLP  
Suite 900  
750 17<sup>th</sup> Street, N.W.  
Washington, DC 20006-4607